



INTERIOR BOARD OF INDIAN APPEALS

Jerry F. Norton v. Fort Hall Agency Superintendent, Bureau of Indian Affairs

19 IBIA 278 (04/02/1991)

Related Board case:
20 IBIA 78



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

JERRY F. NORTON,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 91-61-A
FORT HALL AGENCY SUPERINTENDENT,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	April 2, 1991

On March 18, 1991, the Board of Indian Appeals (Board) received a notice of appeal from Jerry F. Norton (appellant). Appellant seeks review of the failure of the Fort Hall Agency Superintendent, Bureau of Indian Affairs (Superintendent; BIA), to take action concerning appellant's application for a BIA loan to open an automobile sales facility on the Fort Hall Reservation. Although appellant's notice of appeal is headed "Appeal to the Area Director," an original of the notice was sent to the Board. Therefore, the Board will treat the notice of appeal as an appeal to it in order to ensure that the appeal is addressed.

The appeal is docketed under the above case name and number which should be cited in all future correspondence or inquiries regarding the matter. The Board finds, however, that the circumstances of this case require that the appeal be dismissed without prejudice.

Appellant states that he originally submitted a loan request in June 1988, and has since submitted all additional information required by the Superintendent, but that the Superintendent has failed to take action either to approve or disapprove the requested loan. Appellant states that the last formal communication he had with the Fort Hall Agency was in January 1990, at which time he was informed that he would be receiving a written decision. Appellant states that he has yet to receive such a decision.

Regulations in 25 CFR 2.8 provide specific procedures to be followed in order to appeal from the inaction of a BIA official. The procedure requires the person aggrieved to file a written request for decision with the BIA official whose inaction is the subject of controversy. That official is then required to take certain enumerated actions. Only after this procedure has been followed is there a right to proceed to a higher official. Because appellant has not followed this procedure, his appeal is premature.

Therefore, pursuant to the authority delegated, to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the inaction of the Fort Fall Agency Superintendent is dismissed without prejudice as being premature.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge